



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/663,950

09/16/2003

Daniel J. de Waal

IGTIP507

3855

22434

7590

04/17/2009

Weaver Austin Villeneuve & Sampson LLP

P.O. BOX 70250

OAKLAND, CA 94612-0250

EXAMINER

DEODHAR, OMKAR A

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

04/17/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/663,950</p>	<p><b>Applicant(s)</b> DE WAAL ET AL.</p>	
	<p><b>Examiner</b> OMKAR A. DEODHAR</p>	<p><b>Art Unit</b> 3714</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Corbett B. Coburn/  
Primary Examiner, Art Unit 3714

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Walker does not teach a progressive bonus game incremented based upon a stored first set of game outcomes associated with a set of participating progressive players of a game at a first enterprise and based upon a stored second set of game outcomes associated from play of a second game associated with a second enterprise. The Office action acknowledged this deficiency & relied upon Boushy's disclosure of player tracking at a plurality of affiliated casino properties. Regarding the combination, Applicant argues the fact that a customer can accumulate his total points from play at different enterprises does not lead one of ordinary skill to allow him to participate in a progressive jackpot within a designated time period from the different enterprises & that this would teach away from the invention because customers would leave one enterprise & go to another versus staying at one enterprise. Examiner disagrees with this reasoning. The fact that casinos are affiliated in Boushy's system would motivate casinos to generate revenue collectively & it would not matter whether a patron left one casino & entered an adjacent, affiliated casino, on the strip. The organization would still collect money. Regarding the combination in view of McCrea, Applicant argues that because McCrea teaches a table game, the player would not participate at different enterprises; that the player would stay at the same table game. While this argument is persuasive, we must consider what the prior art would have suggested to a person of ordinary skill at the time of Applicant's invention. McCrea teaches the concept of a progressive jackpot that may be incremented upon the occurrence of certain game outcomes. This is the relevant teaching of McCrea & combining it with Walker & Boushy would have been obvious to a person of ordinary skill. Finally, regarding the rejection of claim 9 & the Office action's reliance on Acres for teaching a first set of players being awarded one bonus & a second set of players awarded a second bonus (a consolation), Applicant argues that the consolation prize pool is not a portion of the progressive bonus & therefore there is no disclosure of different portions of the bonus. This is not persuasive. In the portion cited by Acres at Col. 8. Lines 10-15, Acres teaches that the hidden pool is not used to directly fund the bonus pool but the hidden pool is used to collect interim coin-in which be otherwise be lost for bonus promotion purposes. This serves the same purpose as a subset of the overall progressive pool. Whether we call it a hidden pool or a subset really does not change the fact that one set of players wins from the progressive jackpot & another wins from a hidden pool. Finally, the remainder of Applicant's arguments regarding deficiencies in Acres are cured by the teachings of Walker & Boushy, including time limits & different enterprises as explained in the Office action. Consequently, the claim rejections are maintained.